

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Acampora	Team: Team # 6	CCRB Case #: 201201669	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/03/2012 9:30 PM	Location of Incident: On the corner of Henderson Avenue and Bement Avenue; 120th Precinct stationhouse	Precinct: 120	18 Mo. SOL 8/3/2013	EO SOL 8/3/2013	
Date/Time CV Reported Mon, 02/06/2012 10:48 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 02/06/2012 10:48 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Bruce Ceparano	00485	933682	120 PCT
2. Officers			
3. POM John Fahim	31415	941726	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonmichael Raggi	25725	941114	120 PCT
2. SGT Andrew Desimone	02982	911914	120 PCT
3. POM Christophe Bruno	03374	941463	120 PCT
4. POM Michael Smith	18095	937422	120 PCT
5. SGT Nancy Cirigliano	01333	905957	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Bruce Ceparano	Abuse: Sgt. Bruce Ceparano stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM John Fahim	Abuse: PO John Fahim frisked § 87(2)(b)	
C.POM John Fahim	Abuse: PO John Fahim searched § 87(2)(b)	
D.SGT Bruce Ceparano	Abuse: Sgt. Bruce Ceparano authorized the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.SGT Bruce Ceparano	Discourtesy: Sgt. Bruce Ceparano spoke discourteously to § 87(2)(b)	
F.SGT Bruce Ceparano	Off. Language: Sgt. Bruce Ceparano made remarks to § 87(2)(b) based upon race.	
G. Officers	Discourtesy: Officers spoke obscenely to § 87(2)(b)	

Case Summary

On February 6, 2012, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System (encl. 5A-5B).

On February 3, 2012, § 87(2)(b) was pulled over on the corner of Henderson Avenue and Bement Avenue, in Staten Island, by Sgt. Bruce Ceparano and PO John Fahim of the 120th Precinct. The following allegations resulted from this interaction:

- **Allegation A—Abuse of Authority: Sgt. Bruce Ceparano stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
§ 87(2)(g)
- **Allegation B—Abuse of Authority: PO John Fahim frisked § 87(2)(b)**
§ 87(2)(g)
- **Allegation C—Abuse of Authority: PO John Fahim searched § 87(2)(b)**
§ 87(2)(g)
- **Allegation D—Abuse of Authority: Sgt. Bruce Ceparano authorized the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
§ 87(2)(g)
- **Allegation E—Discourtesy: Sgt. Bruce Ceparano spoke discourteously to § 87(2)(b)**
- **Allegation F—Offensive Language: Sgt. Bruce Ceparano made remarks to § 87(2)(b) based upon race.**
§ 87(2)(g)
- **Allegation G—Discourtesy: Officers spoke discourteously to § 87(2)(b)**
§ 87(2)(g)

This case was reassigned to Investigator Michael Acampora on April 24, 2013, following Investigator Takeya Patterson's departure from the agency.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) years old on the incident date, § 87(2)(b) is a black male who is 5'7", weighs 155 lbs., and has black hair and brown eyes. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) filed his complaint with the CCRB's Call Processing System on February 6, 2012 (encl. 5A-5B). § 87(2)(b) provided a brief phone statement on February 13, 2012 (encl. 6A). On February 22, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 7A-7B). § 87(2)(b) provided additional clarifying information to the investigator by phone on June 25, 2012 (encl. 8A). § 87(2)(b) statements are summarized below.

On February 3, 2012, at a time determined by the investigation to be approximately 9:30 p.m., § 87(2)(b) was driving a rented 2011 Nissan Altima (with no tints on the windows), on Bement Avenue between Henderson Avenue and Richmond Terrace in Staten Island. § 87(2)(b) was with his friend "§ 87(2)(b)" who was in the passenger seat. § 87(2)(b) did not know § 87(2)(b) last name, but he was identified by the investigation as § 87(2)(b).

§ 87(2)(b) was pulled over by two plainclothes officers in a marked vehicle. Sgt. Bruce Ceparano (later identified via the name on his uniform) and PO John Fahim (identified by the investigation) instructed § 87(2)(b) and § 87(2)(b) to exit the vehicle. § 87(2)(b) had not been speeding, and did not commit any traffic infractions. § 87(2)(b) had not been smoking anything at the time of the incident.

Upon exiting the vehicle, the officers immediately handcuffed § 87(2)(b) and § 87(2)(b) and brought them to the back/trunk of the car. § 87(2)(b) did not have any warrants, and his license was clean. PO Fahim patted § 87(2)(b) clothing, shook his pants, and then went inside his pockets. Sgt. Ceparano frisked and searched § 87(2)(b) and then he instructed PO Fahim to search the vehicle. PO Fahim searched the front and back seat areas of § 87(2)(b) vehicle. After the vehicle search, Sgt. Ceparano and PO Fahim searched the males again and did not recover anything. One of the officers informed § 87(2)(b) that they had observed someone in the vehicle that had a warrant out for their arrest. No contraband was recovered during the searches, but § 87(2)(b) keys, wallet, cellphone, and money were removed from his pockets. § 87(2)(b) indicated that PO Fahim also searched the vehicle a second time during this interaction.

A few minutes later, § 87(2)(b) took off running. Sgt. Ceparano ran in pursuit of him, and PO Fahim dispatched a call via radio that there were shots fired. However, § 87(2)(b) did not know why PO Fahim made a call for shots fired. Additional units arrived on the scene, and numerous plainclothes officers, uniformed officers, and a helicopter searched for § 87(2)(b) but did not find him. The officers that arrived searched § 87(2)(b) entire car. § 87(2)(b) stated that "like a thousand" officers arrived on scene, including a helicopter, SWAT team, and dogs. § 87(2)(b) could not describe any of the officers who arrived. Plainclothes officers searched § 87(2)(b) car "like ten times," including the hood, trunk, and entire interior. § 87(2)(b) waited in a police vehicle while his car was being searched.

§ 87(2)(b) was arrested and transported to the 120th Precinct stationhouse. § 87(2)(b) waited in the precinct for approximately 10-15 minutes before other officers from the scene arrived. While sitting on a chair near the front desk, Sgt. Ceparano approached § 87(2)(b) and whispered, "You fucking nigger. I hope you fucking die." § 87(2)(b) and Sgt. Ceparano did not exchange words prior to Sgt. Ceparano's comment. There were approximately four plainclothes officers standing within two feet of § 87(2)(b) but § 87(2)(b) doubted that they overheard Sgt. Ceparano's comment.

§ 87(2)(b) stated to an unidentified black male officer sitting at a desk, “You know, your co-worker is racist. He called me a nigger.” § 87(2)(b) stated that there were, “like a thousand officers, no exaggeration,” at the precinct, and several of the plainclothes officers told him to, “Shut the fuck up.” § 87(2)(b) could not provide descriptions of any of these officers. The officers also told § 87(2)(b) “He’s one of us, whose side do you think he’s on. It’s all blue here.” § 87(2)(b) read Sgt. Ceparano’s name from his uniform.

§ 87(2)(b) was charged with § 87(2)(b). However, § 87(2)(b) does not know where the marijuana was recovered from. § 87(2)(b) pled not guilty during his court appearance.

§ 87(2)(b) property, including two car chargers, an iPhone case, two pairs of jeans, two shirts, a jacket, a bottle of cologne, and \$284 dollars, were not vouchered or returned to § 87(2)(b). § 87(2)(b) was told by officers that there was no record of his belongings. Officers also threw away papers in § 87(2)(b) wallet including his social security card. An IAB spin-off case was created regarding § 87(2)(b) property.

§ 87(2)(b) obtained the name “PO Raggi” from his arrest report, and assumed that Sgt. Ceparano’s partner was PO Raggi. The investigation determined that officer to be PO Fahim.]

Attempts to Contact Civilians

On October 4, 2012, § 87(2)(b) was called twice and sent a letter, but did not respond to any contact attempts. On January 14, 2013, § 87(2)(b) was contacted, and he said that he refused to provide a phone statement until he spoke to his lawyer, and to call him back on January 16, 2013. On January 16, 2013, § 87(2)(b) hung up on the investigator after she introduced herself. On January 16, 2013, and February 14, 2013, § 87(2)(b) was left voicemails. On January 16, 2013, and February 14, 2013, § 87(2)(b) was sent letters. As of June 12, 2013, he has not responded to those contact attempts, and no letters have been returned by the USPS.

NYPD Statements:

Subject Officer: SGT. BRUCE CEPARANO

- Sgt. Ceparano was § 87(2)(b) old at the time of the incident. He is a white male, who is 5’9”, 200 lbs., and is bald with brown eyes.
- On February 3, 2012, Sgt. Ceparano was assigned to conditions in the 120th Precinct, and worked from 5:15 p.m. to 2:12 a.m. (February 4, 2012). His partner was PO John Fahim, and the officers were uniformed, and assigned to a marked vehicle (#3069).

Memo Book

Sgt. Ceparano’s memo book (encl. 9A-9C) notes that at 9:25 p.m., the officers stopped a car in front of 117 Bement Avenue, and that § 87(2)(b) was in the passenger seat. § 87(2)(b) was put in handcuffs for the officers’ safety as they suspected he had a firearm. § 87(2)(b) shouldered Sgt. Ceparano to the ground, injuring the officer and allowing him to escape. Sgt. Ceparano pursued § 87(2)(b) but did not locate him. PO Jonmichael Raggi (assigned from PO Fahim) arrested § 87(2)(b).

CCRB Statement

On July 6, 2012 Sgt. Bruce Ceparano was interviewed at the CCRB (encl. 10A-10B). His statement is summarized below.

On February 3, 2012, Sgt. Ceparano was driving on Henderson Avenue in Staten Island with PO Fahim, when Sgt. Ceparano observed a white Nissan Altima with Florida license plates, driving very fast in the opposite direction. The Altima made a sharp right onto Bement Avenue without signaling. Sgt. Ceparano made a U-turn and pulled the vehicle over in front of 117 Bement Avenue. Sgt. Ceparano approached the passenger side and PO Fahim approached the driver.

Sgt. Ceparano recognized the male seated on the passenger side as § 87(2)(b) from pictures hung in the stationhouse regarding § 87(2)(b) being wanted for a parole violation. Sgt. Ceparano had also known of § 87(2)(b) from assaulting officers in the past, but he had never arrested § 87(2)(b) himself. § 87(2)(e), § 87(2)(f)

§ 87(2)(b) Sgt. Ceparano requested § 87(2)(b)'s ID, which § 87(2)(b) provided. Sgt. Ceparano asked § 87(2)(b) to see his hands, because his line of sight was blocked by the plane of the car. § 87(2)(b) did not comply, and crouched over and put his hands under his seat in front of him. Sgt. Ceparano asked § 87(2)(b) to show his hands approximately five to six times before opening the car's door and asking § 87(2)(b) to step out. § 87(2)(b) complied, and Sgt. Ceparano handcuffed him.

§ 87(2)(e), § 87(2)(f)

Sgt. Ceparano stated that he knew that he did not have enough cause to search the vehicle, but when § 87(2)(b) did not comply with showing his hands, he was in fear for his safety. PO Fahim asked the driver, § 87(2)(b) to step out of the vehicle, and placed him in handcuffs for his safety. Sgt. Ceparano instructed PO Fahim to search the immediate, grabbable areas of the driver and passenger seat, because both § 87(2)(b) and § 87(2)(b) were shuffling while in the car. Additional factors leading to the search included § 87(2)(b)'s past criminal history, and the furtive movements he made in the vehicle.

Sgt. Ceparano sat § 87(2)(b) on the back of the Altima's bumper and PO Fahim placed § 87(2)(b) in the same location. Sgt. Ceparano was unsure of whether PO Fahim had frisked § 87(2)(b) prior to placing him on the back of the vehicle. While sitting on the bumper, § 87(2)(b) kept moving his body around. Sgt. Ceparano walked to the back of the vehicle and asked § 87(2)(b) to stop moving. At that point, § 87(2)(b) hopped off the bumper and tackled Sgt. Ceparano to the ground, causing Sgt. Ceparano to sustain a line of duty injury due to a herniated disc in his lower back. § 87(2)(b) took off running, and Sgt. Ceparano called for back-up. Almost the entire precinct arrived, and a large foot pursuit ensued. Aviation and canine units also joined in the search. The officers did not locate § 87(2)(b) and a complaint report was created for § 87(2)(b) for assault in the second degree.

Sgt. Ceparano is unaware of where PO Fahim searched in the vehicle, or if he was able to conduct a full search before Sgt. Ceparano was tackled. Sgt. Ceparano did not search the car at any time. Sgt. Ceparano was unaware of whether the additional back up units searched the Altima, because he was away from the scene and engaged in the search. Capt. Joseph Memoly headed the search, and Sgt. Nancy Cirigliano arrived and helped search as well.

During this incident, Sgt. Ceparano had no contact with § 87(2)(b) because he was a part of the search team on foot. § 87(2)(b)'s arrest was ultimately reassigned to PO Raggi, because PO Fahim and Sgt. Ceparano were Go15'd, as a result of § 87(2)(b) escaping while handcuffed. PO Raggi was involved in the search for § 87(2)(b) but Sgt. Ceparano was unaware if he interacted with § 87(2)(b). A knife was recovered from under the seat in the Altima; however, Sgt.

Ceparano was unaware of who located it. Sgt. Ceparano was later informed that § 87(2)(b) dropped PCP in the back of the squad car while being transported to the stationhouse. However, Sgt. Ceparano did not transport him and was unaware of who did.

Sgt. Ceparano did not see or interact with § 87(2)(b) at the stationhouse nor did he recall holding any conversation with him. Sgt. Ceparano did not state, “You fucking nigger, I hope you fucking die,” nor did he hear any other officer do so. To his knowledge, § 87(2)(b) was not strip-searched. Sgt. Ceparano does not know of anyone involved in the incident named “§ 87(2)(b)

Subject Officer: PO JOHN FAHIM

- *PO John Fahim was § 87(2)(b) old at the time of the incident. He is a white male, who is 6’1”, 210 lbs., and has brown hair and brown eyes.*
- *On February 3, 2012, PO Fahim was assigned to conditions in the 120th Precinct, and worked from 5:30 p.m. to 2:05 a.m. (February 4, 2012). His partner was Sgt. Ceparano, and the officers were uniformed, and assigned to a marked vehicle (#3069).*

Memo Book

PO Fahim’s memo book (encl. 11A-11C) notes that at 9:30 p.m., the officers stopped a white Maxima with Florida plates in front of 117 Bement Avenue, with § 87(2)(b) who had a possible active warrant and possible firearm. § 87(2)(b) pushed Sgt. Ceparano to the ground with his shoulder and fled the scene. He was not recovered. § 87(2)(b) was the driver of the vehicle. Loose marijuana was found on the driver side floor, and a gravity knife was found on the passenger side floor. § 87(2)(b) also dropped alleged PCP when he was being put into an RMP.

Complaint Report

The complaint report prepared by PO Fahim (encl. 12A-12C) states that while § 87(2)(b) was handcuffed for safety purposes, he pushed Sgt. Ceparano to the ground and injured him. A canvas of the area was conducted for § 87(2)(b) but he was not located.

CCRB Statement

On February 14, 2013, PO John Fahim was interviewed at the CCRB (encl. 13A-13C). His statement is summarized below.

On February 3, 2012 at approximately 9:30 p.m., PO Fahim was driving his marked patrol car (vehicle #3069) eastbound on either Castleton Avenue or Henderson Avenue. PO Fahim was with Sgt. Bruce Ceparano, and both officers were in uniform. The officers were assigned to conditions, and were on their way to the 120th Precinct stationhouse for an operation. While driving toward the stationhouse, the officers noticed a white Nissan Maxima with Florida plates driving in the opposite (westbound) direction. The street the officers were driving on was only two lanes (one in each direction), and the Maxima passed them head on.

§ 87(2)(e), § 87(2)(f)

PO Fahim said he believed that § 87(2)(b) may have had an active parole warrant at the time, as there were fliers with his pictures on them hanging in the stationhouse. (PO Fahim later learned that § 87(2)(b) did have an active warrant at the time.)

As the officers' vehicles passed the Maxima, PO Fahim thought that the passenger looked much like § 87(2)(b)'s photo on the stationhouse fliers. The Maxima then failed to signal when making a right turn onto Bement Avenue, and increased its speed. The officers turned on their vehicle's lights, made a U-turn, and followed the vehicle. The officers pulled the Maxima over at 117 Bement Avenue. The officers observed the Maxima for less than two minutes before pulling it over. PO Fahim made the decision to pull over the Maxima.

Sgt. Ceparano requested an additional unit in case § 87(2)(b) was in the vehicle and had a firearm. As the officers approached the Maxima and were nearby the trunk, they observed movement inside the vehicle. PO Fahim described the movement as back and forth hand motions between the two passengers. PO Fahim then approached the driver's side of the Maxima, and Sgt. Ceparano approached the passenger side. § 87(2)(b) was driver of the Maxima, and § 87(2)(b) was front passenger. The vehicle did not have tinted windows, PO Fahim did not recall if the vehicle's windows were up or down when they approached. PO Fahim believed § 87(2)(b) was still moving when they reached to the vehicle, and they asked him to see his hands.

The officers asked § 87(2)(b) for his driver's license and registration, and for § 87(2)(b)'s identification. The officers saw § 87(2)(b)'s face when they approached vehicle, confirming that it matched the image in the stationhouse. § 87(2)(b) said that he did not have identification.

The officers ordered § 87(2)(b) to exit the vehicle when they told him that he may have an active warrant. They also ordered § 87(2)(b) out of the vehicle for their safety (as they had seen movement in the vehicle and had information about a possible firearm). The officers only had to ask § 87(2)(b) and § 87(2)(b) to exit the vehicle once, and they both complied. PO Fahim did not recall the exact dialogue between Sgt. Ceparano and § 87(2)(b) at the car, but he said that the sergeant was essentially just telling § 87(2)(b) to show him his hands.

PO Fahim and Sgt. Ceparano took § 87(2)(b) and § 87(2)(b) to the back of the Maxima, handcuffed them for their safety, and frisked them for weapons. PO Fahim handcuffed and frisked § 87(2)(b) and Sgt. Ceparano handcuffed and frisked § 87(2)(b) and they leaned both men against the back bumper of the Maxima. PO Fahim frisked § 87(2)(b) around his waistband, jacket, ankle, and anywhere else he could possibly conceal a firearm. PO Fahim did not search him at that time. PO Fahim did not recover anything from § 87(2)(b) at that time. PO Fahim stated that both § 87(2)(b) and § 87(2)(b) were moving a lot while at the back of the Maxima. Neither PO Fahim nor Sgt. Ceparano said anything to the men while they were at the back of the vehicle. PO Fahim then went back to the Maxima to search for the alleged firearm.

PO Fahim poked his head into the driver's side of the vehicle with his flashlight for less than 10 seconds. He was trying to look at the lungable areas of the vehicle for the firearm. Almost immediately after beginning to look for the firearm, PO Fahim heard a commotion coming from the back of the Maxima. PO Fahim did not search the Maxima at that time, and did not recover anything. PO Fahim saw § 87(2)(b) strike Sgt. Ceparano with his shoulder, and run away from the scene. Sgt. Ceparano fell to the ground as a result of being hit by § 87(2)(b) (Sgt. Ceparano later went to hospital for a herniated disc in his back.)

PO Fahim put the foot pursuit through the radio, and requested additional units to assist. PO Fahim placed § 87(2)(b) in his patrol car, locked the Maxima, and proceeded to drive after Sgt. Ceparano and § 87(2)(b). PO Fahim searched for approximately five minutes before finding Sgt. Ceparano. § 87(2)(b) was not located later that night.

When the additional units arrived on scene, PO Fahim, PO Raggi, and § 87(2)(b) went back to the Maxima. PO Fahim did not recall where he met up with PO Raggi. PO Fahim searched the driver side area of the Maxima, and immediately found loose marijuana on floor of driver side. Either PO Fahim or PO Raggi also found a gravity knife on passenger side floor. PO Fahim and PO Raggi are the only two officers who searched the Maxima. At some point, the two officers also searched the entire vehicle, including the trunk, center console, and glove compartment. PO Fahim believed the glove compartment was unlocked, and said that it was searched on scene. PO Fahim did not remember if the full search was on scene or back at the precinct after the Maxima was vouchered, but believed it was at the precinct. The officers recovered the marijuana and gravity knife while still on scene. The officers searched in, around, and behind the front and back seats while on scene. PO Fahim said the vehicle search on scene was approximately five minutes long. The decision to arrest § 87(2)(b) was made after returning to the Maxima.

PO Fahim and PO Raggi then took § 87(2)(b) out of their patrol car to transfer him to another police vehicle. One officer needed to drive the Maxima back to the stationhouse, and the officers did not want to have § 87(2)(b) transported in a patrol car with only one officer in it. As § 87(2)(b) was being taken out of PO Fahim's car to be moved, he dropped a bag of PCP on either the ground or his seat. (PO Fahim did not recall precisely where the PCP was dropped.) PO Fahim recovered the PCP, and PO Raggi witnessed it. § 87(2)(b) was then transported back to the stationhouse by two unidentified, uniformed officers in a marked patrol car. PO Fahim did not recall if he or PO Raggi drove the Maxima back to the stationhouse.

PO Fahim did not see or interact with § 87(2)(b) at the stationhouse. PO Fahim never saw PO Raggi frisk or search § 87(2)(b). Sgt. Ceparano had no further interaction with § 87(2)(b) on scene or at the stationhouse. PO Fahim did not hear any officers say, "You fucking nigger, I hope you die," to § 87(2)(b).

Subject Officer: PO JOHNMICHAEL RAGGI

- *PO Johnmichael Raggi was § 87(2)(b) old at the time of the incident. He is a white male, who is 5'8", 190 lbs., and has brown hair and brown eyes.*
- *On February 3, 2012, PO Fahim was assigned to anti-crime in the 120th Precinct, and worked from 5:30 p.m. to 2:05 a.m. (February 4, 2012). His partner was PO Michael Smith, and the officers were plainclothes, an unmarked Chevy Impala (vehicle number unknown).*

Memo Book

PO Raggi's memo book (encl.15A-15C) notes that at 9:30 p.m., he responded to a foot pursuit called by the 120th Precinct Conditions team. At 12:04 a.m., PO Raggi noted that he made an arrest in front of 117 Bement Avenue. PO Raggi vouchered two cellphones, keys, a belt, laces, a hat, gravity knife, two earrings, two clear zips of alleged PCP and loose marijuana, \$282 dollars, and a 2011 Nissan Maxima for safekeeping.

Arrest Report

PO Raggi prepared § 87(2)(b) arrest report (encl. 14A-14D) which states that during a car stop, § 87(2)(b) was found to be in possession of marijuana in plain view, a gravity knife, and alleged PCP. § 87(2)(b) was arrested for § 87(2)(b).

CCRB Statement

On August 15, 2012, PO Jonmichael Raggi was interviewed at the CCRB (encl. 16A-16B). His statement is summarized below.

On February 3, 2012, at approximately 9:30 p.m., PO Raggi and his partner (PO Smith) responded to a foot pursuit of a black male with a clothing description, which PO Raggi did not record in his memo book. The foot pursuit was called by the 120th Precinct Conditions team. When PO Raggi arrived, he observed what he approximated to be more than twenty officers at the scene. § 87(2)(b) was already being detained and standing on the side of the road. § 87(2)(b) was not placed under arrest at this point, and PO Raggi could not recall if § 87(2)(b) was handcuffed. PO Raggi did not recall being informed of the details of § 87(2)(b) stop by any officer.

PO Raggi and PO Smith assisted in the foot pursuit for § 87(2)(b) who had escaped custody of the conditions team. While the officers were canvassing, PO Raggi observed § 87(2)(b) placed inside of a squad car, but he could not recall which officers were monitoring § 87(2)(b). § 87(2)(b) was not apprehended during the search.

After the search, PO Raggi assisted PO John Fahim back to § 87(2)(b)'s vehicle. PO Raggi and PO Fahim searched the plain-view area of the vehicle, and loose marijuana was recovered. PO Raggi could not describe the specific plain-view areas of the vehicle he searched, but indicated that it included the tops of the seats. PO Raggi could not recall where the marijuana was recovered, or which officer physically found it. Once the marijuana was recovered, PO Raggi searched under the seats and the entirety of the car, including the glove compartment, and any other compartments that were unlocked. A gravity knife was recovered from under the front passenger seat. PO Raggi could not recall which officer recovered it. PO Raggi did not recall searching the trunk. The search lasted about three to four minutes. PO Fahim was the only other officer who assisted in the vehicle search.

PO Raggi searched the car incident to arrest, and as a normal vouchering procedure. There were no other factors which led PO Raggi to search § 87(2)(b) vehicle. PO Raggi determined § 87(2)(b) to be placed under arrest after the marijuana and gravity knife were discovered in the car.

After searching the car, PO Raggi frisked § 87(2)(b) by patting the outside of his entire body. PO Raggi did not observe any officer search § 87(2)(b). § 87(2)(b) was placed in another sector's RMP and transported to the stationhouse. PO Raggi searched § 87(2)(b) at the stationhouse, and recovered PCP from his pockets. PO Raggi did not have any verbal interaction with § 87(2)(b) at the stationhouse, other than obtaining his pedigree information when processing his arrest. PO Raggi could not recall who the desk sergeant on duty at the time was. PO Raggi did not observe § 87(2)(b) interact with Sgt. Bruce Ceparano at the stationhouse and did not overhear any officer state to § 87(2)(b) "You fucking nigger, I hope you die."

Witness Officer: PO MICHAEL SMITH

- *PO Michael Smith was § 87(2)(b) old at the time of the incident. He is a white male, who is 5'9", 180 lbs., and has brown hair and brown eyes.*

- *On February 3, 2012, PO Smith was assigned to anti-crime in the 120th Precinct, and worked from 5:30 p.m. to 2:05 a.m. (February 4, 2012). He worked with PO Johnmichael Raggi and PO Christopher Bruno. The officers were plainclothes, an unmarked vehicle (vehicle number unknown).*

Memo Book

PO Smith did not have his memo book with him at the time of his interview. He has since been left a message at the desk of his command to fax over the missing memo book.

CCRB Statement

On September 18, 2012, PO Michael Smith was interviewed at the CCRB (encl. 17A-17B). His statement is summarized below.

On February 3, 2012, at approximately 11:30 p.m., PO Smith was working anti-crime with PO Christopher Bruno and PO Jonmichael Raggi in the 120th Precinct in Staten Island. The officers were in plainclothes, and driving in an unmarked vehicle. The officers received a call for an “85” (lost perp), along with a description of the individual and a location. PO Smith did not recall the description of the individual, other than that it was for a male.

The officers arrived on scene at Henderson Avenue and Bement Avenue to join in the search for the perp § 87(2)(b). PO Smith, PO Bruno, and half of the anti-crime went in one direction, while PO Raggi and the other half of the team went in the other direction. Both teams were canvassing the area and searching for a single individual, § 87(2)(b). PO Smith was not sure who was heading up the foot pursuit, and only knew that § 87(2)(b) had been arrested had escaped. PO Smith said that there were more than ten officers in his group searching, but he could not further estimate the number of officers. PO Smith did not know how many officers were in the other group (that arrested § 87(2)(b)).

The search for § 87(2)(b) lasted for a few hours, but he was not found that night. PO Bruno was with PO Smith for the entire duration of the search. At no point did PO Smith become aware of why § 87(2)(b) and § 87(2)(b) had been initially stopped.

PO Smith did not see or interact with § 87(2)(b) or § 87(2)(b) at any point. PO Smith did not witness PO Raggi, or any other officers on scene interact with § 87(2)(b) or § 87(2)(b). PO Smith did not see § 87(2)(b) white Nissan. PO Smith did not search any vehicles, and did not see any officers search any vehicles.

PO Smith was not positive who he returned to the stationhouse with, but believes it was PO Bruno. PO Raggi did not go back to the stationhouse with PO Smith, and PO Smith did not know how PO Raggi got back to the stationhouse. PO Smith returned to the stationhouse in the same vehicle he arrived on scene in.

PO Smith did not see § 87(2)(b) back at the stationhouse, and did not have any interaction (verbal or otherwise) with § 87(2)(b) at the stationhouse. PO Smith did not see Sgt. Ceparano or any other officers interact with § 87(2)(b) at the stationhouse. PO Smith believed that Sgt. Ceparano was part of the search for § 87(2)(b).

Witness Officer: SGT. NANCY CIRIGLIANO

- *Sgt. Nancy Cirigliano was § 87(2)(b) old at the time of the incident.*
- *On February 3, 2012, Sgt. Cirigliano was the conditions supervisor in the 120th Precinct, and worked from 5:15 p.m. to 2:12 a.m. (February 4, 2012). She worked with PO James Trapasso, her operator. Sgt. Cirigliano was uniformed, and assigned to vehicle #5095.*

Memo Book

Sgt. Cirigliano's memo book (encl. 18A-18B) notes a 10-87 at Henderson Avenue to Sgt. Ceparano's location.

CCRB Statement

On October 11, 2012, Sergeant Nancy Cirigliano was interviewed at the CCRB (encl. 19A-19B). Her statement is summarized below.

Sgt. Cirigliano did not bring her memo book for the incident date, February 3, 2012. [Sgt. Cirigliano brought her memo book from September 3, 2012, which is what she stated her notification said the incident date was.]

Sgt. Cirigliano was shown the roll call from February 3, 2012, and saw that she worked from 5:15 p.m. to 2:12 a.m. (on February 4, 2012). Sgt. Cirigliano was uniformed, working as the conditions supervisor with PO James Trapasso (her operator), and assigned to vehicle #5095.

Sgt. Cirigliano initially stated that she had no recollection of the incident on February 3, 2012. Sgt. Cirigliano stated that she is not at all familiar with § 87(2)(b) or § 87(2)(b). When shown a picture of § 87(2)(b) license, Sgt. Cirigliano stated that she had never seen him before. Sgt. Cirigliano stated that she did not recall a foot pursuit for § 87(2)(b).

Sgt. Cirigliano was shown § 87(2)(b) and § 87(2)(b) arrest reports and complaint reports, and stated that she did not recall the incident. Sgt. Cirigliano stated that she knows PO Jonmichael Raggi, PO John Fahim, and Sgt. Bruce Ceparano, but did not recall Sgt. Ceparano being injured in February 2012.

Sgt. Cirigliano was shown the SPRINT from the incident, and began to recall it. The record was paused at 9:49 a.m. to allow Sgt. Cirigliano to review the SPRINT with her legal counsel.

Sgt. Cirigliano stated that Sgt. Ceparano called for backup at Henderson Avenue and Bement Avenue in Staten Island, and she responded. Sgt. Ceparano told Sgt. Cirigliano that he had just stopped a vehicle with a male § 87(2)(b) wanted for a shooting in it, and that the male escaped on foot. There was a description broadcasted of the male, but Sgt. Cirigliano could not recall what it was. Sgt. Cirigliano did not recall if there were initially other officers on the scene (other than Sgt. Ceparano and his partner).

Sgt. Cirigliano believed there was another apprehended individual on scene § 87(2)(b) but she did not pay much attention to him, and did not see him searched. Sgt. Cirigliano stated that he was a black male standing outside of his vehicle with PO Fahim watching him. She did not remember if he was handcuffed. Sgt. Cirigliano did not interact with § 87(2)(b) or observe any other officers interact with him.

Sgt. Cirigliano told two uniformed officers under her command, who she believed were PO John Romani and PO Denis Borchman (she looked at the roll call and confirmed this), to secure the

suspects' vehicle and not to touch it. She did not recall what kind of vehicle it was. Neither Sgt. Cirigliano nor her officers searched the vehicle. Sgt. Cirigliano was not informed if the vehicle was searched at any point, and was not informed of any contraband found in the vehicle. Sgt. Cirigliano was near the vehicle for approximately two to three minutes.

Sgt. Cirigliano and PO Trapasso drove around in their vehicle searching for § 87(2)(b) Sgt. Cirigliano could not estimate how long the search lasted. Sgt. Cirigliano could not approximate the number of officers involved with the search.

Sgt. Cirigliano eventually received information that § 87(2)(b) was around the corner from their location in a house on Elm Street, and she and other officers responded to that location. The officers waited outside for the duty captain, who arrived on scene, and then waited for ESU. Once ESU arrived, they discussed making an entry with the duty captain, but decided against it.

Sgt. Cirigliano did not interact with the suspects' vehicle at all. She did not enter the vehicle, or transport it back to the stationhouse. Sgt. Cirigliano did not recall how the vehicle was transported from the location to the stationhouse.

Sgt. Cirigliano did not remember if she went back to the stationhouse, after the incident, or if she saw § 87(2)(b) there. Sgt. Cirigliano did not remember § 87(2)(b) or any other black males yelling and/or being combative in the stationhouse. When Sgt. Cirigliano was told the alleged stationhouse incident was half an hour after the street incident, she said there was no way at the stationhouse at that point, as she was still part of the search for § 87(2)(b) which she said probably lasted more than an hour.

Sgt. Cirigliano did not recall a black male complain that an officer stated, "You fucking nigger. I hope you fucking die." Sgt. Cirigliano did not state that to § 87(2)(b) and she did not hear any other officers state it. Sgt. Cirigliano did not use any profanity with § 87(2)(b) and she did not hear any other officers use any profanity with § 87(2)(b).

Witness Officer: PO CHRISTOPHER BRUNO

- *PO Christopher Bruno was § 87(2)(b) old at the time of the incident. He is a white male, who is 5'6", 175 lbs., with brown hair and hazel eyes.*
- *On February 3, 2012, PO Bruno was assigned to conditions in the 120th Precinct, and worked from 5:30 p.m. to 2:05 a.m. (February 4, 2012). He was working with PO Raggi and PO Smith. PO Bruno was in plainclothes and assigned to an unmarked vehicle (vehicle number unknown).*

Memo Book

PO Bruno did not have his memo book with him at the time of his interview. He has since been left a message at the desk of his command to fax over the missing memo book.

CCRB Statement

On August 17, 2012, PO Christopher Bruno was interviewed at the CCRB. His statement is summarized below.

On February 2, 2012, PO Bruno and his partners, PO Raggi and PO Smith, responded to a foot pursuit for § 87(2)(b) PO Bruno could not recall specifically what street he responded to, but

it was not on the same block as § 87(2)(b) and his car. PO Bruno did not see § 87(2)(b) or his car at any point during the incident. PO Bruno did not observe his partners interact with § 87(2)(b) and could not recall whether they searched § 87(2)(b) vehicle.

The officers immediately began canvassing the area for § 87(2)(b). However, PO Bruno could not recall whether PO Smith and PO Raggi remained with him during the entirety of the foot pursuit. PO Bruno could not recall or estimate how long the foot pursuit lasted. There were numerous officers at the scene of the incident, but PO Raggi could not recall which officers were present. § 87(2)(b) was not apprehended during the search. PO Bruno did not transport § 87(2)(b) to the stationhouse, and did not see or interact with § 87(2)(b) at the stationhouse.

Witness Officer: SGT. ANDREW DESIMONE

- Sgt. Andrew Desimone was § 87(2)(b) old at the time of the incident. He is a white male, who is 6', 250 lbs., with brown hair and blue eyes.
- On February 3, 2012, Sgt. Desimone was the desk officer in the 120th Precinct stationhouse, and worked from 2:50 p.m. to 11:47 p.m. (on February 4, 2012). He was in uniform, and could not recall if he was working with an assistant desk officer.

Memo Book

Sgt. Desimone's memo book (encl. 21A-21B) notes that he was the desk officer for the duration of his tour.

CCRB Statement

On August 10, 2012, Sgt. Andrew Desimone was interviewed at the CCRB (encl. 22A-22B). His statement is summarized below.

On February 3, 2012, Sgt. Desimone was the only desk officer on duty during his tour. Sgt. Desimone did not recall the incident, and did not recall § 87(2)(b) name or face when shown a photograph. He did not recall any black male arrestee engage in an argument with another officer in the stationhouse. Sgt. Desimone did not recall any mass foot pursuit, helicopter or K-9 pursuit for § 87(2)(b) and he is not familiar with him. Sgt. Desimone did not recall who the desk sergeant on-duty after him was on that date.

NYPD Documents

SPRINT

The SPRINT for this incident (encl. 23A-23P) notes that § 87(2)(b) ran away from the police, and they called for backup. The officers alternatively state that § 87(2)(b) may have/does have a firearm and that there were possible shots fired.

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of June 10, 2013, with regard to this incident (encl. 29A).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Civilian CCRB History

- This is the first CCRB complaint filed by [§ 87(2)(b)] (encl. 4A).

Subject Officers CCRB History

- Sgt. Ceparano has been a member of the service for nine years, and there are no substantiated CCRB allegations against him (encl. 2A-2B).
- PO Fahim has been a member of the service for six years, and there are no substantiated CCRB allegations against him (encl. 3A).

Conclusion

Allegations Not Plead

[§ 87(2)(g)]

Identification of Subject Officers

Sgt. Ceparano and PO Fahim acknowledged their interactions with [§ 87(2)(b)] and his vehicle. Therefore, Allegations A, D, E, and F, are pleaded against Sgt. Ceparano, and Allegations B and C are pleaded against PO Fahim. As [§ 87(2)(b)] was unable to provide descriptions (or even an approximate number) of officers who spoke discourteously to him at the stationhouse, Allegation G is pleaded against “Officers”.

Investigative Findings and Recommendations

Allegation A—Abuse of Authority: Sgt. Bruce Ceparano stopped the car in which [§ 87(2)(b)] and [§ 87(2)(b)] were occupants.

[§ 87(2)(e), § 87(2)(f)]

[REDACTED] On the night of the incident, the officers noticed an individual who matched photos of [§ 87(2)(b)] (that they had seen hanging in the stationhouse) riding in a vehicle matching the exact description they were given by the detective squad. Furthermore, PO Fahim stated that after the Maxima passed the officers’ vehicle, it failed to signal when making a right turn onto Bement Avenue, and then increased its speed. [§ 87(2)(g)]

Allegation B—Abuse of Authority: PO John Fahim frisked § 87(2)(b)

Allegation D—Abuse of Authority: Sgt. Bruce Ceparano authorized the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Fahim frisked § 87(2)(b) and that Sgt. Ceparano authorized the vehicle search. The officers had received information from the detective squad that § 87(2)(b) was in possession of a firearm and in the vehicle that § 87(2)(b) was driving. When the officers approached the vehicle, they witnessed back and forth hand motions between § 87(2)(b) and § 87(2)(b). § 87(2)(b) Sgt. Ceparano recognized § 87(2)(b) from pictures of him hung in the stationhouse regarding § 87(2)(b) being wanted for a parole violation. Sgt. Ceparano also knew that § 87(2)(b) § 87(2)(b) had assaulted officers in the past, but he had never arrested § 87(2)(b) himself.

PO Fahim stated that he frisked § 87(2)(b) for the officers' safety and to see if he had the firearm in question. Sgt. Ceparano stated that he instructed PO Fahim to search the immediate, grabbable areas of the driver and passenger seat, because the officers had a tip about a firearm in the vehicle, and he observed both § 87(2)(b) and § 87(2)(b) shuffling while in the car.

PO Fahim stated that he poked his head into the driver's side of the vehicle with his flashlight for less than 10 seconds. He was trying to look at the lungable areas of the vehicle for the alleged firearm. Almost immediately after beginning to look for the firearm, PO Fahim heard a commotion coming from the back of the Maxima. PO Fahim did not search the Maxima at that time, and did not recover anything.

§ 87(2)(b) stated that Sgt. Ceparano instructed PO Fahim to search the vehicle, and that the officer searched the front and back seat areas of § 87(2)(b) vehicle. § 87(2)(b) also indicated that PO Fahim searched the vehicle a second time during their initial interaction. No contraband was recovered at this time.

PO Fahim stated that after § 87(2)(b) escaped and additional units arrived on scene, he and PO Raggi searched the Maxima. PO Fahim searched the driver side area of the Maxima, and immediately found loose marijuana on floor of driver side. Either PO Fahim or PO Raggi also found a gravity knife on passenger side floor (neither officer was sure which recovered it). The two officers searched the entire vehicle, including the trunk, center console, and glove compartment. PO Fahim believed the glove compartment was unlocked, and said that it was searched on scene. PO Fahim did not remember if the full search was on scene or back at the precinct after the Maxima was vouchered, but believed it was at the precinct. The officers recovered the marijuana and gravity knife while still on scene. The officers searched in, around, and behind the front and back seats while on scene. Both officers confirmed that they were the only two officers who searched the Maxima.

The knowledge of a person's past record may be relevant in determining whether a police officer's conduct during a lawful encounter is reasonable. Founded suspicion of criminal activity arises when there is some present indication of criminality based on observable conduct or reliable hearsay information. People v. Boulware 130 A.D.2d 370 (App. Div. 1st Dep't. 1987) (encl. 1A-1C).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C—Abuse of Authority: PO John Fahim searched § 87(2)(b)

§ 87(2)(b) stated that PO Fahim searched inside of his pockets after the initial frisk, and that he went inside his pockets. Sgt. Ceparano then instructed PO Fahim to search § 87(2)(b) vehicle. After the vehicle search, PO Fahim searched § 87(2)(b) again. No contraband was recovered during the searches, but § 87(2)(b) keys, wallet, cellphone, and money were removed from his pockets.

PO Fahim stated that he did not search § 87(2)(b) after the initial car stop, and did not recover anything from § 87(2)(b) at that time.

§ 87(2)(g)

Allegation E—Discourtesy: Sgt. Bruce Ceparano spoke discourteously to § 87(2)(b)

Allegation F—Offensive Language: Sgt. Bruce Ceparano made remarks to § 87(2)(b) based upon race.

§ 87(2)(g)

Allegation G—Discourtesy: Officers spoke discourteously to § 87(2)(b)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date